

Remarks

This SUPPLEMENTAL REPLY is in response to an Office Action mailed January 27, 2006. In this SUPPLEMENTAL REPLY, Applicants address the Examiner's refusal to accept the stated priority claim. Applicants reiterate comments regarding claim rejections under § 102 and § 103 of the prior filed REPLY dated July 19, 2006, incorporated herein fully by reference.

Priority

The Examiner has refused the claim of priority to NZ 520,866 and NZ 508,779 because no Certified Copies were provided. Applicants note that the priority PCT application claimed priority to NZ 508,779, and therefore, no Certified copy of the NZ provisional application is required.

Applicants have obtained a Certificate of Commissioner (Cover Letter) and a Certificate with attached Patents Form 1 and Patent Form 4 for NZ 520,866, which are being submitted herewith. The Examiner's patience in waiting for these documents has been greatly appreciated. Applicants hope that based on the enclosed Certificate, the Examiner will now reconsider the rejection to accept the priority claim and to grant priority to NZ 508,799 and NZ 520,866.

The Examiner has refused the claim of priority to US 10/450,232, claiming that the '232 application "is not a prior filed Application." Office Action, page 2.

According to 35 U.S.C. §363, "An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Patent and Trademark Office except as otherwise provided in section 102(e) of this title." (2006).

The '232 application was a 371 of PCT International Application PCT/NZ01/00277, filed December 11, 2001, which claimed priority to NZ 508,779, filed December 11, 2000. Thus, under 35 U.S.C. §363, the '232 application has an effective filing date of the December 11, 2001, which was before the filing of the instant application on August 19, 2003. Therefore, Applicants respectfully submit that the priority claim of the instant application to the prior applications as amended is proper.

Conclusion

Applicants respectfully submit that the priority claim has now been perfected, and as a result, the pending claims are not rendered unpatentable over Vickers or Ikenasio, which are not prior art. Moreover, by the amendment filed in the prior REPLY dated July 19, 2006, the claims now are not rendered unpatentable by Clark, Gluckman, Williams or any combination of Clark, Gluckman, Williams, DiMarchi or Ambler. As stated in the prior REPLY, none of the aforementioned references teach or suggest using IGF-1 to treat a "mammal subject to fetal programming, having a history of: at least one of low birth weight, maternal undernutrition and interuterine undernutrition" as claimed.

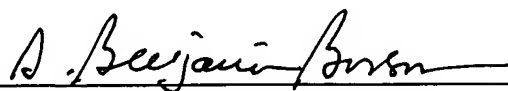
Therefore, Applicants respectfully submit that the claims are now patentable and request the Examiner to issue a Notice of Allowability

If the Examiner believes that a conversation with the undersigned would move this application forward, the undersigned Attorney invites such a conversation.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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